IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLIATION NO.1415/06

Smt.Banoo @ Yasmin Javed Shaikh .... Applicant

V/s.

The State of Maharashtra
(At the instance of Anti
Narcotic Cell, Bombay .... Respondent

Shri.M. Hanif Solkar & Sharif A.B. Adv. for the applicant.
Miss.M.M. Deshmukh APP for the State.

CORAM : V.M. KANADE, J.

DATED : 28/04/06

P.C.:-

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant was arrested by the Officer of Anti Narcotic Cell in connection with C.R.No.42/06 registered with Anti Narcotic Cell, CB, CID, Mumbai, for her alleged involvement in the offence punishable under the N.D.P.S. Act, 1985.

3. It is alleged that the applicant was assisting her husband Javed in the business of buying and

selling of Narcotic Drugs. The learned Counsel for the applicant submitted that no contraband was found with the present applicant nor it was recovered at her instance. It is submitted that the case of the respondent is that certain quantity of Charus was found in the room which was given on rent to the applicant's husband. It is submitted that there is no evidence, except the statement of the co-accused in the present case. It is submitted that there is no material to show that the present applicant was assisting her husband in the alleged business of buying and selling Charus. It is submitted that merely because the applicant's husband is absconding she has been arrested. Affidavit in reply is filed and it is stated therein that there is no material to show that the applicant's husband was a tenant at the time when raid was conducted and Charus was recovered from the said room. It is further submitted in the said affidavit that there was old lease agreement of the premises between owner of the house and applicant's husband Javed. No material was found from the premises to show that the applicant had stayed in the said room or had any connection or was in

possession of the said room during the time of raid.

3. In my view, there is no evidence against the present applicant. In the statement of co-accused which was recorded on 9/3/06, he has stated that Javed and the applicant used to stay in the room where contraband was found. I have perused the statement of the co-accused which was shown to me by learned APP appearing on behalf of the State. The co-accused Abdul Jafar Pathan has not stated in his statement that the present applicant was assisting her husband in the said Charus business. He has merely stated that the applicant and her husband were staying in the said room which was purchased by Javed sometime in the year 2004. Thus, there is no evidence or material which would show that the applicant is any way involved in the commission of said offence. In my view, therefore, prima facie, case is made out by the applicant to be released on bail.

4. The applicant, under this circumstance, be released on bail in the sum of Rs.10,000/- with one or two sureties in the like amount. The applicant shall report to the Anti Narcotic Cell, CB, CID,

Mumbai, once in a month till chargesheet is filed. The applicant may initially furnish cash surety and within two weeks thereafter furnish one or two sureties in the like amount.

5. The applicant shall not tamper with the evidence or threaten the witnesses. If any complaint is received by the Investigating Officer, the Public Prosecutor is at liberty to file an application for cancellation of bail.

6. The Trial Court shall not be influenced by any observations made by this Court while deciding the application and they shall not be construed as an expression of opinion on merits of the case and it shall decide the case on its own merit and in accordance with law.

7. The application is accordingly disposed of.

V.M. KANADE J.